



State may limit public review of new power plants

Energy Commission proposal to allow
private developer-regulator meetings

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SACRAMENTO — With a record number of power plants under development, the state agency in charge of licensing them is contemplating dramatically limiting the public's role in the review of new facilities.

Under proposed rules, the state Energy Commission, which has been under tremendous political pressure to approve more power plants, could soon allow extensive closed-door meetings between plant developers and regulators that are now prohibited.

The commission also could expand its power to bar citizens and other interested groups from introducing evidence at public hearings on proposed plants.

Championed by the commissioner who

oversaw the marathon review of Calpine Corp.'s controversial south San Jose power plant, the new rules must still be approved by the five-member commission. At least one commissioner opposes some of the changes.

But the proposed limits are fueling questions about California's commitment to environmental review of plants, a process that has been scaled back by new laws and executive orders designed to speed construction

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plants in the face of the state's energy crisis.

"Aside from violating the spirit of California environmental law that encourages public participation, when you rush through projects, suppress information and silence people, you get bad projects," said Anne Cohen, an attorney with Oakland-based Communities for a Better Environment, a statewide environmental justice organization. "You will have negative environmental and health impacts that could be identified and prevented."

Commissioner Robert Laurie, who is pushing the changes, could not be reached for comment.

But Jan Smutny-Jones, president of the Independent Energy Producers Association, defended the proposal as a way to streamline approval of new plants.

"The process simply takes too long," said Smutny-Jones, whose association represents power generators. "We continue to support California's environmental laws, but along a time-frame that is a little more rational."

The association has pushed for changes for years and earlier this year lobbied unsuccessfully to persuade lawmakers to expand the rights of generators to hold private meetings with regulators. Such meetings are now limited to exchanges of information and procedural matters.

The Energy Commission's review of new power plants can indeed be lengthy and contentious.

The commission now must hold a public meeting when it reviews any substantive issue with power plant developers. Citizens and groups are given the right to present evidence and cross-examine all the involved parties, including commission analysts and the plant developer.

But the commission has not rejected any major power plant proposed in recent years.

Supporters of the current process note citizens and other groups often raise issues and suggest changes to projects that make new plants cleaner and more environmentally sensitive.

"If anything, they should be doing more to involve the public," said Elizabeth Cord, head of the Santa Teresa Citizen Action

Group, which has fought Calpine's San Jose project for more than a year.

"These are not Wal-Marts or shopping centers we're talking about. This will be in our air."

Cord's group and others, including several former commission analysts, say citizens are already at a disadvantage in a process controlled by commission officials under pressure to approve power plants.

In Shasta County, the intervention of residents and others led the developer of the Three Mountain power plant to dramatically cut the amount of water the plant was to draw out of a river.

Similar changes were made to a power plant in Sutter County due in part to the intervention of an advocacy group sponsored by the state building and construction trades. The group — California Unions for Reliable Energy — also pushed for lower emissions of pollutants at several other plants around the state.

Those changes would not have been made had the process been less open, said CURE attorney Marc Joseph.

If the commission changes its rules, the commissioner presiding over the review of a power plant could simply decide not to allow groups or individuals to present evidence or give testimony in hearings about a project.

The new rules also would stop commission staff members from reviewing potential impacts of a plant already reviewed by other agencies, such as air pollution districts. Currently, commission analysts scrutinize the conclusions of such agencies.

The new rules "would allow staff and applicants to cut a deal behind closed doors without anybody knowing about it," Joseph said. "The proposed regulations would have the effect of eliminating the opportunity for the public to participate in a meaningful way in the process."

Smutny-Jones said power plant opponents and other citizens would still have the opportunity to raise issues and concerns at commission hearings, even if they might not be allowed to cross-examine officials and developers.

Senior commission staff members have recommended against some of the new rules. The rule changes will be taken up by the full commission later this year.